

## **REMARKS**

### **A. INTRODUCTION**

On August 28, 2006, Applicants submitted a paper titled "Response to the Office Action mailed April 28, 2006." No amendments of any kind were provided or referenced.

On November 15, 2006, the PTO mailed a "Notice of Non-Compliant Amendment" that indicated Applicants had provided an amendment that was non-compliant with the provisions of 37 C.F.R. § 1.121 ("Rule 121").

Applicants' representative contacted Examiner Weisberger to explain that no amendment had been attempted, so there was no cause for the Notice. The Examiner stated that he had been unable to find in the record a listing of the claims, and requested that Applicants forward a listing with the status identifiers described in Rule 121.

### **B. NOTICE OF NON-COMPLIANCE IS INAPPROPRIATE**

The Notice of Non-Compliant Amendment was inappropriate.

No amendment was provided or indicated in the Response filed on August 28, 2006. Accordingly, none of the provisions of Rule 121 were implicated. See Rule 121(a) ("Amendments in applications...are made by filing a paper...directing that specified amendments be made.") and Rule 121(c) ("Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application.").

In Applicants' Response, there was no direction that a specified amendment (of any kind) be made, and no indicated change, addition, or cancellation of any claim. Accordingly, Rule 121 was not implicated by the proper reply filed by Applicants under 37 C.F.R. § 1.111 (which allows for replies "with or without amendment"). Accordingly, Applicants request that the Notice of Non-Compliant Amendment be withdrawn.

### **C. LISTING OF THE CLAIMS IS ATTACHED**

As a courtesy to the Examiner, a listing of the claims in this application is attached. Status identifiers indicate whether claims are withdrawn, cancelled, original, or previously presented. (As no claims were amended in the Response, no claims are indicated as currently amended.)

In the future, if the Examiner would like a listing of the claims, please do not hesitate to contact Applicants' representative and request one.

**D. PETITION FOR EXTENSION OF TIME TO RESPOND & AUTHORIZATION TO CHARGE APPROPRIATE FEES**

Applicants do not believe that any fees are necessary for this response.

Please grant a petition for any extension of time required to make this Response timely.

Deposit Account: 50-0271

Order No.: 96-200-C1

Please charge any appropriate fees set forth in §§ 1.16 – 1.18 for this paper and for any accompanying papers to Deposit Account 50-0271. Please credit any overpayment to the same account.

**E. CONCLUSION**

It is submitted that all of the claims are in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

If the Examiner has any questions regarding this amendment or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at mdowns@walkerdigital.com.

Respectfully submitted,

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Date

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